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CIVIL AND POLITICAL RIGHTS

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 March 2000]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

The International Federation of Human Rights (FIDH) and the Kyrgyz Committee for Human Rights (KCHR) are extremely concerned about the violations of civil and political rights in the Kyrgyz Republic.

Although the Kyrgyz Republic is a party to the main international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and in spite of the commitments expressed by the current Government, the situation of human rights has been worsening. The main issues of concern are the following:

a) During the preparation of parliamentary elections scheduled for the 20th of February 2000, numerous violations of the right to free and fair elections have occured.
b) Closely connected, the freedom of association and the right of peaceful assembly are constantly restricted and violated by national authorities.
c) The situation concerning the freedom of expression and information, in particular the situation of journalists and the media, is deteriorating.
d) Arbitrary and illegal detention, inhuman and cruel treatment of individuals are still a matter unchallenged by national authorities, aggravated by the perpetrators' total impunity.

a) Violations of the right to free and fair elections

Public local authorities obstruct the rightful representation of the different political trends in the Kyrgyz Republic, in total violation of the New Electoral Code (published in May 1999), of Article 8§2 of the Kyrgyz Republic, and their international obligations set out in Articles 19, 21, 25 of the ICCPR.

1. First of all, the registration procedure threatens the very existence of political entities. The New Electoral Code stipulates that they will benefit, for the first time, of fifteen seats out of sixty in the new Legislative Assembly. However, it conditions the participation in elections for parties which have been registered at least one year in advance (recent organisations like « Kairat El Party », the « Republican Party » and « Ar-Namys Party » are therefore excluded).
Moreover, a decision of the Ministry of Justice has enacted a new condition: if the Constitutive charter of a party does not mention explicitly their intention to run for elections, the party is considered as ineligible. This concerns parties regularly registered, such as « El Party », « Manas el Party », the « Labour Popular Party » or the « Party of Bishkek Dwellers ».
This restrictive regulation clearly expresses the authorities' reluctance to cooperate in the organisation and expression of the opposition.

2. Furthermore, due to an unfair registration procedure, several individual candidates faced difficulties to be registered (like Mrs. Zamira Sydykova, chief editor of the « *Res Publica* »newspaper).

3. Forced to act individually, candidates are in addition the target of systematic intimidation and arbitrary arrests. Several opposition members faced pressure from the authorities, such as Mr. Danyar Usenov (MP, Legislative Assembly, leader of the Popular Party of Kyrgyzstan - PPK), Mr. Felix Kulov (leader of Ar Namys Party), Mr. Bakyt Beshimov (MP, Assembly of People's representants), Mr. Jypar Jeksheev (leader of the Democratic Movement of Kyrgyzstan), Mr. Ishenbai Kadyrbekov (MP, Legislative Assembly).

b) Violations of freedom of peaceful assembly and association

In accordance with Articles 21 and 22 of the ICCPR and with Article 16 of the Kyrgyz Constitution, Kyrgyzstan has the obligation to recognise every one's right to peaceful assembly and to freedom of association. Unfortunately, these rights are regularly violated, particularly at the stage of request for registration or authorisation for organising demonstrations.

4. Concerning the pre-electoral campaign, the Administration has regularly impeded the obtention of the required authorisation and many meetings have been unlawfully forbidden. Local authorities have repeteadly hindered the PPK, one of the main opposition parties, from campaigning.

5. National authorities manipulate the registration of human rights NGOs, granting it to groups that deal with uncontroversial issues or are loyal to the government, and denying it to groups whose work is more independant.
Registration is not a simple formality : without it, groups cannot rent offices, maintain a bank account to pay staff and cover routine expenses, enter into contracts, or obtain permission for organising demonstrations.

The Observatory for the Protection of Human Rights Defenders, a joint program of the FIDH and the World Organisation against Torture (OMCT) has called upon the national authorities in the case of the de-registration of the Kyrgyz Committee for Human Rights on the 28th of September 1998. Authorities attempted to use bureaucratic measures to delay its re-registration and registered, under the same name, another organisation loyal to the government, thus violating the Law on Public Associations (Articles 12 and 13). The KCHR challenged the legality of the Ministry of justice' s decision, but no judicial instances accepted to deal with the issue. Following numerous protests from international organisations, the KCHR was allowed to re-register in August 1999.

6. Continued surveillance of human rights defenders, threats and harassment are others great hinders to human rights work. KCHR members are experiencing it at their own expenses. The Governor of the region summoned and threatened Mr. Albert Korgoldoev, regional co-ordinator of the KCHR in Jalal Abad, for his human rights activities. In December 1999, while being in hospital, Mr. Ramazan Dyryldaev, chairman of the KCHR, was fined for non-appearance in court.

c) Violations of the right to freedom of expression and information, media freedoms

Article 16 of the Kyrgyz Constitution guarantees freedom of expression. However, the situation of the press is a serious concern as the Kyrgyz government tries to extend its control over the media, intimidates journalists and restricts access to information.

7. State and private TV stations and other means of media have faced persecution when trying to broadcast or print alternative views to official ones and have been impeded from broadcasting programs when they were meant to express criticisms of unlawful actions by law-enforcement bodies, public or political figures.

Moreover, the authorities abusively use defamation law, in contradiction with Article 19 of the ICCPR, by bringing numerous criminal libel suits against independent newspapers and journalists.

Three newspapers have been closed by a decision of the Ministry of Justice in 1998 and their chief editors had to face criminal charges. *Res Publica* newspaper has been condemned to pay an important fine, which led it on the edge of bankruptcy. The judicial decision has been viewed as

significant evidence of the dependence of the judiciary and the executive. Other newspapers faced invasion of their premises (like *Asaba*, in April 1999) or are subjected to constant fiscal check ups of taxation police.

d) Arbitrary and illegal detention, torture, ill - treatment and impunity

9. In Kyrgyzstan, torture and police brutality are a current practice. Although the United Nations Convention against Torture is in force since September 1997, the domestic legislation does not still define torture with the result that the specific offence of torture is not punishable by appropriate penalties [1].

10. Every hour people are subject to torture in the cells of the district police departments, pre-trial isolation facilities and isolation facilities for temporary detention. The frequent and excessive use of force by police authorities has sometimes even led to death in custody.

11. Children and women are no exception to such treatments. Children are submitted to physical and psychological pressure, illegally interrogated in absence of their parents, custodian or lawyer and often detained in custody with little or insufficient evidence. These acts are clearly violating the provisions of the Convention on the Rights of the Child, in force in the Kyrgyz Republic since October 1994.

12. Torture occurs mainly in law enforcement bodies' offices where police officers beat detainees in order to obtain self-incriminating statements. Unfortulately, every police officer has to solve ten crimes every month and the fulfillment of this quota takes precedence over justice.

13. Another area of serious concern is prison conditions. Legislature remains extremely weak and ineffective, containing few or no provisions protecting the rights of detainees.
Those conditions include crowding, lack of medical treatment, inadequate food, lack of access to education. Such inhuman and degrading conditions have caused serious illnesses and several deaths of convicts.
According to the law, whenever there is evidence of acts that come under the definition of torture, competent authorities can open criminal proceedings but in practice, very few cases have been opened.

14. Finally, law enforcement authorities benefit from a total impunity : legal procedures that require investigation of reported cases of torture are rarely used. Individuals are indeed reluctant to introduce complaints to higher law- enforcement bodies, fearing further persecution from militia officers. Whenever they do, prosecutors often argue that there is no firm evidence of any crime.

15. In conclusion, the FIDH and KCHR urge the United Nations Commission on Human Rights to examine the situation and to call upon the Government of Kyrgyzstan to comply with its obligations under the international human rights instruments.

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[1] The United Nations Committee against Torture confirmed the absence of definition, see CAT/C/23/6, par.5, (18/11/99).